



STATE OF CONNECTICUT

STATE ELECTIONS ENFORCEMENT COMMISSION

TESTIMONY PRESENTED BEFORE THE GOVERNMENT ADMINISTRATION AND ELECTIONS COMMITTEE

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Senate Bill 1108 – An Act Concerning the Powers and Duties of the State Elections Enforcement commission and the Voter's Bill of Rights

Chairpersons Slossberg and Spallone, Ranking members McLachlan and Hetherington, and distinguished members of the committee, thank you for the opportunity to present testimony today.

The primary focus of this Commission proposal is in response to some of the difficulties that our agency is experiencing with enforcement following the move to the new optical scan voting machines from the old lever voting machines.

The prior lever voting machine system was codified in great detail in state statutes, with very specific procedures. Under this system, the Commission had significant enforcement authority, because when there was a deviation from procedure, it typically amounted to a statutory violation. The Commission has the ability to investigate any alleged violation of a general statute pertaining to an election, primary or referenda pursuant to Conn. Gen. Stat. § 9-7b, and this allowed us to hold accountable many actors who made critical errors in the administration of elections.

The systems governing the new voting machines, however, are largely codified in regulation, which raises a substantial question regarding enforcement. Regulations have the force and effect of law, but it is not clear that the Commission has the authority to enforce the regulations of another agency, the Secretary of the State. The Commission believes that the Secretary of State's regulations should be enforceable, and that there ought to be consequences to failing to follow proper election procedures. We have discussed the proposal with the Secretary of State's office, and she indicates that she supports the Commission's proposal, which would clarify that the Commission has the ability to investigate an alleged violation of the Secretary of State's regulations, and enforce against violators consistent with the Commission's prior authority with respect to lever machines. A glaring example of the omission in our authority concerns the custody and control of ballots. Presently the requirements concerning ballot security are not addressed anywhere in statute, but are addressed in regulation only. With our new system, the security of ballots is of paramount concern, because if the ballots are not there, they cannot be recanvassed, nor can the machine properly be audited. Having the written ballot to rely on for back up is a touted feature of our new system, but we must provide an enforceable means to secure the ballots themselves.

The Commission also encourages you to consider a global revision to the election administration statutes to address the new voting system. The original regulations on optical scan machines were passed many years ago, when the principal voting machine used was the lever machine, and not when the system was contemplated as a complete replacement for the lever machines. There are vestiges of the lever voting machines left throughout the election statutes, and we are finding in cases that it is presenting difficulties in enforcement. At a minimum, existing statutes should not be *inconsistent* with the regulations governing the optical scan voting machines. One of the proposed changes to our enabling statute would clarify our impoundment authority, which had historically extended to lever machines, and make changes for consistency and clarification with the audit bill recently passed.

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The Commission is also the state agency charged with receiving and determining complaints made under the federal Help American Vote Act. Having such a process is a condition of the state's receipt of millions of dollars in federal funds. The Commission is seeking civil penalty authority for violations of the Help America Vote Act, which it presently lacks. A violation of the Help America Vote Act sounds like a serious offense, but the Commission is presently without the authority to impose a civil penalty for such a violation.

Similarly, the Commission is seeking authority to impose a civil penalty of \$2,000 for a violation of a prior order of the Commission. The Commission realized this gap in its authority when a complaint was filed alleging that an individual who violated absentee ballot laws, who had agreed to an order not to handle absentee ballot applications for a two year period, was alleged to be distributing such applications within that period in violation of her agreement.

Other changes in our enabling statute would grant equivalent status to registrars of voters as town clerks and the Secretary of the State presently have. All other individuals must file a complaint under oath, except for town clerks and the Secretary of the State. We think the same logic should apply to Registrars of Voters, who serve a critical function as our local eyes and ears, and are often the source of complaints concerning fraudulent registrations, double-voting and other improprieties. We want to encourage them to bring such issues to our attention, give them the same status as town clerks, and not deter them by requiring an additional step that the complaint be sworn under oath.

The Commission is also seeking an amendment to Conn. Gen. Stat. § 9-236b to establish that the Voter's Bill of Rights creates substantive rights, and is not merely a notice requirement.

The bill also amends Conn. Gen. Stat. § 9-622(8) and (10) to address omissions caused by the January 1, 2007 recodification of the campaign finance laws, amends Conn. Gen. Stat. § 9-623 to delete an obsolete reference to the Secretary of the State as the repository for campaign finance filings, and to include affidavits of intent to abide or not abide by the expenditure limits in the Citizens' Election Program within the automatic late fee structure presently in place for late filed campaign finance reports.

Thank you for the opportunity to present testimony to the committee, and I would be happy to answer any questions that you may have.